

ARTICLE 10

FISH AND OTHER SEAFOODS

Cross references. — As to authority of Commissioner of Agriculture to impose penalty in lieu of other action, see § 2-2-10. As to regulation of commercial fishing and fish dealing generally, see § 27-4-70 et seq.

26-2-310. Definitions.

As used in this article, the term:

(1) "Nonresident of the State of Georgia" means a person who has not maintained a continuous residence in this state for one year and not resided therein for six months next preceding the time when he makes application for a license.

(2) "Resident of the State of Georgia" means a person who has maintained a continuous residence in this state for one year and has resided therein for the six-month period preceding the time when he makes application for a license and a corporation organized under the laws of this state, of which a majority of the stockholders are residents of this state, or a foreign corporation which has become domesticated and qualified with the Secretary of State to do business in this state six months before it makes application for a license.

(3) "Seafood" means all fresh or frozen fish and all fresh or frozen shellfish, such as shrimp, oysters, clams, scallops, lobsters, crayfish, and other similar fresh or frozen edible products. However, nothing in this article shall apply to any canned or salted seafoods.

(4) "Wholesale fish dealer" means any person, firm, association of persons, or corporation who sells fish or seafood of any kind to a retail dealer, a wholesale dealer, hotels, restaurants, or other public eating places of any kind or nature whatsoever. (Ga. L. 1937-38, Ex. Sess., p. 332, § 4.)

26-2-311. Administration by Commissioner of Agriculture.

It shall be the duty of the Commissioner of Agriculture to administer this article. (Ga. L. 1937-38, Ex. Sess., p. 332, § 3.)

26-2-312. Wholesale fish dealers' licenses.

(a) No person, firm, association of persons, or corporation shall be authorized or permitted to engage in the business of wholesale fish dealer in this state without first having paid to the Commissioner of Agriculture the annual license fees required in this Code section and having procured a license from the Commissioner authorizing such person to engage in the business of wholesale fish dealer. The annual license fee applicable to and required of wholesale fish dealers shall be as follows:

(1) The annual license fee for each resident wholesale fish dealer shall be \$50.00 for each place of business, fixed or movable;

(2) The annual license fee for each nonresident or alien wholesale fish dealer shall be \$50.00 for each place of business, fixed or movable, provided that the annual license fee for each nonresident or alien wholesale fish dealer who is a resident of a state which charges Georgia resident wholesale fish dealers a fee in excess of \$50.00 shall be the same as the fee such state charges Georgia resident wholesale fish dealers for each place of business, fixed or movable. The Commissioner of Agriculture of the State of Georgia may enter into a reciprocal agreement with any other state to limit the fees such state charges a Georgia resident who operates as a wholesale fish dealer or its equivalent in such other state.

(b) Each truck or movable unit from which fish are sold at wholesale shall be deemed a place of business within the meaning of this article.

(c) A resident who produces the fish and other seafood he or she sells at retail or wholesale shall not be required to pay the license fee provided in paragraph (1) of subsection (a) of this Code section; nor shall any commercial fisherman licensed to catch fish or seafood by the state game and fish laws, rules, and regulations be required to pay the license fee provided for in this Code section. (Ga. L. 1937-38, Ex. Sess., p. 332, § 5; Ga. L. 1939, p. 316, § 1; Ga. L. 1945, p. 315, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 521, § 2; Ga. L. 1987, p. 908, § 1; Ga. L. 2002, p. 819, § 1.)

The 1987 amendment, effective July 1, 1987, in paragraph (2) of subsection (a), inserted "until July 1, 1988, and \$500.00 on and after July 1, 1988," and added the language beginning, "provided that the annual license fee for each nonresident or alien wholesale fish dealer ... not more than \$50.00 per annum."

The 2002 amendment, effective July 1, 2002, in paragraph (a)(2), deleted "until July 1, 1988, and \$500.00 on and after July 1, 1988," following "\$50.00" and substituted "who is a resident of a state which charges Georgia resident wholesale fish dealers a fee

in excess of \$50.00 shall be the same as the fee such state charges Georgia resident wholesale fish dealers for each place of business, fixed or movable" for "shall be \$50.00 on and after July 1, 1998, for each such dealer who is a resident of a state which has entered into a reciprocal agreement with the Commissioner of Agriculture of the State of Georgia to limit the fees which such state charges to Georgia residents who are wholesale fish dealers to not more than \$50.00 per annum" in the first sentence and added the last sentence, and inserted "or she" in subsection (c).

26-2-313. Applications for wholesale fish dealers' licenses.

(a) Each and every person desiring to engage in the business of wholesale fish dealer in this state shall annually on or before January 1 in every year make application to the Commissioner of Agriculture for a license in which such applicant shall state his name, his post office address, the nature of business in which he desires to engage, and the

place at which he proposes to conduct his business. Such applicant shall also furnish to the Commissioner such other and additional information as the Commissioner may require. When such information is furnished, the Commissioner shall advise the applicant the amount of the license tax required of such applicant, and when said annual license tax is paid, the Commissioner shall issue to such applicant a license which shall particularly state the nature of the business which the applicant thereunder is authorized to conduct in this state and the place or places from which it may be conducted.

(b) The annual license fee shall be payable on or before January 1 of each and every year thereafter; provided, however, that whenever an application is submitted after July 1 of any year, the annual license fee for the remaining portion of such year shall be one-half of the annual license fee provided for in Code Section 26-2-312. (Ga. L. 1937-38, Ex. Sess., p. 332, § 6.)

26-2-314. License revocation.

The license of any wholesale fish dealer is subject to revocation by the Commissioner of Agriculture for violation of any law, rule, or regulation pertaining to the sale or distribution of seafoods or fish. (Ga. L. 1937-38, Ex. Sess., p. 332, § 14.)

26-2-315. Promulgation of rules and regulations regarding sanitation, distribution, and transportation of fish and seafoods.

The Commissioner of Agriculture is authorized to regulate and prescribe rules and regulations with respect to the proper method of sanitation, distribution, and transportation of all fish and seafoods in this state and, as well, all fish and seafood transported from all other states. To this end the Commissioner may require that all fish and seafoods transported into and in and through this state shall be in refrigerated cars or by refrigerated trucks with insulated bodies or in containers disconnected from the body of the truck or by express or in boxes or other containers adequately iced. When fish and seafoods are transported from this state by truck, they shall

be equipped with enclosed insulated bodies or containers disconnected from the body of the truck with proper refrigeration to carry the fish and seafood in good condition with 50 percent weight of ice to weight of fish or seafoods. (Ga. L. 1937-38, Ex. Sess., p. 332, § 7; Ga. L. 1992, p. 6, § 26.)

The 1992 amendment, effective February 19, 1992, part of an Act to correct errors and omissions in the Code, corrected a spelling error in this Code section.

26-2-316. Suitable equipment and sanitation for wholesale fish dealers.

The Commissioner of Agriculture is authorized to require each wholesale fish dealer having a fixed place of business to provide suitable equipment and sanitation to handle and care for fish and seafoods in a sanitary manner; and that each wholesale dealer having a fixed place of business shall have in his place of business a refrigerated or insulated box or cooler in which a degree of not higher than 40 degrees temperature shall be maintained and that his place of business shall have proper drainage and sewerage for the care of waste in the proper dressing or processing of fish and seafoods. (Ga. L. 1937-38, Ex. Sess., p. 332, § 8.)

26-2-317. Traveling fish dealers; equipment.

No person shall be permitted as a traveling fish dealer to conduct a business in this state unless he is so equipped with refrigerated and insulated containers and unless his vehicle is so equipped with proper refrigeration or insulation as to provide adequate safeguards to prevent the sale of unsanitary products. (Ga. L. 1937-38, Ex. Sess., p. 332, § 9.)

RESEARCH REFERENCES

C.J.S. — 36A C.J.S., Food, § 28.

26-2-318. Inspection of fish and seafoods.

It shall be the duty of the Commissioner of Agriculture to provide the proper and necessary inspection of all fish and seafoods sold or distributed in this state or transported into this state from other states. (Ga. L. 1937-38, Ex. Sess., p. 332, § 10.)

RESEARCH REFERENCES

Am. Jur. 2d. — 35 Am. Jur. 2d, Food,
§ 13.

C.J.S. — 36A C.J.S., Food, § 12.

26-2-319. Allocation of license fees.

All revenues obtained from the annual license fees exacted or required to be paid by and under this article shall be allocated to the Department of Agriculture for the purpose of administering this article. (Ga. L. 1937-38, Ex. Sess., p. 332, § 11.)

26-2-320. Penalty.

Any person who violates any provision of this article or any valid rule or regulation promulgated by the Commissioner of Agriculture pursuant to the terms of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not less than 30 days nor more than six months or by a fine of not less than \$50.00 nor more than \$500.00, or by both fine and imprisonment, in the discretion of the court. (Ga. L. 1937-38, Ex. Sess., p. 332, § 12.)